

ESTTA Tracking number: **ESTTA82618**

Filing date: **05/26/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91170399
Party	Defendant BVS Entertainment, Inc. BVS Entertainment, Inc. 500 South Buena Vista Street Burbank, CA 91521
Correspondence Address	JEREMY KAUFMAN THE WALT DISNEY COMPANY 500 SOUTH BUENA VISTA STREET BURBANK, CA 91521
Submission	Answer
Filer's Name	Linda K. McLeod
Filer's e-mail	docketing@finnegan.com, linda.mcleod@finnegan.com, judy.valusek@finnegan.com
Signature	/Linda K. McLeod/
Date	05/26/2006
Attachments	0003539.PDF ( 5 pages )(163989 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<p>SMSC GAMING ENTERPRISE d/b/a MYSTIC LAKE CASINO HOTEL,</p> <p style="text-align:center">Opposer</p> <p style="text-align:center">v.</p> <p>BVS ENTERTAINMENT, INC.,</p> <p style="text-align:center">Applicant.</p>	<p>Opposition No. 91170399</p> <p>Application No. 78/659,203 Mark: MYSTIC RACER Filed: June 27, 2005</p>
--	---

**ANSWER**

BVS Entertainment, Inc. ("Applicant") answers the Notice of Opposition against its pending Application Serial No. 78/659,203 as follows:

Responding to the preamble of the Notice of Opposition, Applicant admits that it filed Application Serial No. 78/659,203 for the mark MYSTIC RACER on June 27, 2005, in the name of BVS Entertainment, Inc.; Applicant admits that the mark MYSTIC RACER as shown in Application Serial No. 78/659,203 was published for opposition on March 28, 2006; Applicant denies that Opposer will be damaged by the registration of the mark MYSTIC RACER; and Applicant lacks sufficient information to form a belief as to the truth or falsity of any remaining allegations in the preamble, and therefore denies them.

1. Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 1 of the Notice of Opposition, and therefore denies them.

2. Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 2 of the Notice of Opposition, and therefore denies them.

3. Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 3 of the Notice of Opposition, and therefore denies them.

4. Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 4 of the Notice of Opposition, and therefore denies them.

5. Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 5 of the Notice of Opposition, and therefore denies them.

6. Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 6 of the Notice of Opposition, and therefore denies them.

7. There is no Paragraph 7.

8. Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations set forth in Paragraph 8 of the Notice of Opposition, and therefore denies them.

9. Admitted.

10. Applicant admits that on June 27, 2005, it filed intent-to-use Application Serial No. 78/659,203 for the mark MYSTIC RACER, which was published for opposition on March 28, 2006 for afghans; barbecue mitts; bath linen; bath towels; bed

blankets; bed canopies; bed linen; bed sheets; bed spreads; blanket throws; calico; children's blankets; cloth coasters; cloth doilies; cloth flags; cloth pennants; comforters; crib bumpers; curtains; fabric flags; felt pennants; golf towels; hand towels; handkerchiefs; hooded towels; household linen; pillow covers; pot holders; quilts; receiving blankets; silk blankets; table linen; textile napkins; textile place mats; textile tablecloths; throws; towels; washcloths; woollen blankets in International Class 24.

Applicant lacks sufficient information to form a belief as to the truth or falsity of any remaining allegations set forth in Paragraph 10 of the Notice of Opposition, and therefore denies them.

11. Denied.

12. Denied.

13. Applicant denies the allegations in the WHEREFORE paragraph of the Notice of Opposition.

#### **AFFIRMATIVE DEFENSES**

14. Opposer has failed to state a claim upon which relief may be granted.

15. Opposer's allegations pertaining to matters outside of the United States are irrelevant and beyond the scope of this proceeding, and thus fail to state a claim upon which relief may be granted.

16. With respect to the exhibits attached to the Notice of Opposition, such exhibits do not constitute evidence of record, and thus Applicant denies any allegations purporting to relate to such exhibits.

WHEREFORE, BVS Entertainment, Inc. prays that this opposition be dismissed with prejudice, and that Applicant's mark be granted registration.

Respectfully Submitted,

Dated: May 26, 2006



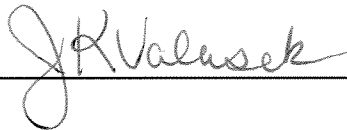
---

David M. Kelly  
Linda K. McLeod  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.  
901 New York Avenue, N.W.  
Washington, D.C. 20001-4413  
Telephone: (202) 408-4000  
Facsimile: (202) 408-4400

## **CERTIFICATE OF SERVICE**

I hereby certify that on May 26, 2006, a true and correct copy of the foregoing Answer was served by United States first class mail, postage prepaid, on counsel for Opposer:

Steven F. Olson  
Jeffrey S. Rasmussen  
Olson, Allen & Rasmussen, LLC  
8200 Humboldt Avenue South #200  
Bloomington, MN 55431



---